

SUMMARY ANALYSIS OF AMENDED BILL

Author: Benoit Analyst: Gail Hall Bill Number: AB 1277
 Related Bills: See Prior Analysis Telephone: 845-6111 Amended Date: June 1, 2007
 Attorney: Doug Powers Sponsor: _____

SUBJECT: Eliminate Potential Double Inclusion In Income When Dividend Distributions Are Made To Newly Formed Corporations Within Unitary Group

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended April 10, 2007.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☐ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- ☐ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO _____.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 10, 2007, STILL APPLIES.
- ☒ OTHER – See comments below.

SUMMARY

This Franchise Tax Board sponsored bill would provide rules for the elimination from income of certain dividends received.

SUMMARY OF AMENDMENTS

The June 1, 2007, amendments resolved the technical considerations discussed in the analysis of the bill as amended April 10, 2007, shown below for convenience. Except for this change, the remainder of the department's analysis of the bill as amended April 10, 2007, still applies.

POSITION

Pending.

Board Position:

_____ S _____ NA _____ NP
 _____ SA _____ O _____ NAR
 _____ N _____ OUA ☒ PENDING

Legislative Director

Date

Brian Putler

6/11/07

RESOLVED TECHNICAL CONSIDERATIONS

1. The bill may be interpreted to require a recipient of a dividend to be a member of the combined unitary group at the time the tax return is filed before dividend income may be excluded. The bill should be amended to clarify that the recipient corporation must be a member of the unitary group only at the time the dividend was paid.
2. The bill provides an operative date of January 1, 2007, for amendments that are declaratory of existing law. The operative date for the declaratory language should be removed.
3. The amendments described in paragraph (2)(A) of the bill relating to a newly formed member are a change in existing law instead of a declaration of existing law as provided in the bill. The legislative findings section should be revised accordingly.
4. The amendments relating to dividends paid from income earned in years prior to the payor and payee becoming members of a California combined group filing could be misinterpreted. This language can be interpreted to mean California must accept the income determination rules of another state. The language should be revised to close this loophole.

LEGISLATIVE STAFF CONTACT

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